

IN THE UNITED STATES COURT OF APPEALS
FOR THE CIRCUIT OF THE DISTRICT OF COLUMBIA

BRIAN BURKE

Appellant,

v.

RECORD PRESS,

Appellee.

Nos. 14-7077, 14-7078

APPELLANT'S MOTION TO IMMEDIATELY FILE BRIEF OUT OF
TIME

Appellant Brian Burke hereby moves this court for leave to file the Appellant's Opening Brief on January 2, 2015, in excess of the time previously permitted by this court. Appellant has not previously asked for an extension. The accompanying memorandum sets forth the detailed, supporting facts and compelling reasons for this request.

Appellant requested an extension from Appellee on December 29, 2014. Appellee denied the request, stating that it was untimely. Pursuant to Circuit Rule 28(e), Appellant seeks leave to file the attached Opening Brief Out of Time for the following reasons.


1. Appellant's attorney and his sole associate both fell sick during the week that the Opening Brief was due, in connection with the recent outbreak of influenza that has been labeled an epidemic by the CDC. This has reduced their ability to spend significant amounts of time on this brief, since it effectively knocked the entire small firm out of commission for that week.
2. The timing of the flu also prevented Appellant's Counsel from knowing that they would need more time until after the D.C. Cir. Rule 28(e)(2) seven (7) day deadline had already expired.
3. Moreover, the challenges inherent in the travel of the holiday season exacerbated this, as Appellant's attorneys both traveled out of state.
4. Due to these challenges, Appellant's counsel required more time than anticipated to complete the Opening Brief by the deadline, and was unaware that he would need additional time to do so until after the D.C. Cir. Rule 28(e)(2) seven (7) day deadline had come and gone.
5. The delay in filing is not egregious, being only four (4) days, and will not prejudice the Appellee.

CONCLUSION

The incapacitation of Appellant's Counsel during the holidays in the lead up to a complex brief is an extraordinarily compelling circumstance.

Appellant's Opening Brief has been delayed as a result, but it would be unjust to prevent Appellant from filing simply because his attorneys were ill, especially when the delay is so short. For that reason, Appellant requests this Honorable Court to permit Appellant to file his Opening Brief out of time.

Respectfully Submitted,



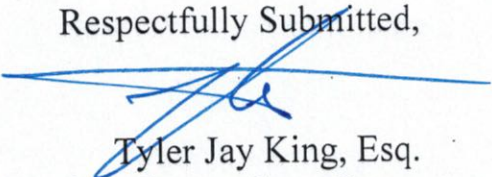
Tyler Jay King, Esq.
Franklin Square Law Group
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Washington, DC 20005
Attorney for the Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 2, 2015, I caused the foregoing BRIEF FOR APPELLANT BRIAN BURKE to be served by electronic format via ECF and hand-served by courier upon:

John Lomas
McKenna Long & Aldridge LLP
1900 K Street, NW, Suite 100
Washington, DC 20005
Counsel for Appellee Record Press, Inc.

Respectfully Submitted,



Tyler Jay King, Esq.
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Washington, DC 20005
Attorney for the Appellant

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 14-7077, 14-7078
Consolidated Case

UNITED STATES OF AMERICA, ex rel. BRIAN BURKE
and BRIAN BURKE, Relator,
Appellant (No. 14-7077)

vs.


RECORD PRESS, INC.,
Appellee (No. 14-7078)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

PARTIES AND AMICI

The parties to this litigation are the United States of America, ex rel, Brian Burke
and Records Press, Inc.



Name: Tyler King